

**MISSOURI STATE AUDITOR'S OFFICE  
FISCAL NOTE (22-067)**

**Subject**

Initiative petition from Austin Shaffer regarding a proposed constitutional amendment to Article XXX of the Constitution of Missouri. (Received October 6, 2021)

**Date**

October 26, 2021

**Description**

This proposal would amend Article XXX of the Constitution of Missouri.

The amendment is to be voted on in November 2022.

**Public comments and other input**

The State Auditor's office requested input from the **Attorney General's office**, the **Department of Agriculture**, the **Department of Economic Development**, the **Department of Elementary and Secondary Education**, the **Department of Higher Education and Workforce Development**, the **Department of Health and Senior Services**, the **Department of Commerce and Insurance**, the **Department of Mental Health**, the **Department of Natural Resources**, the **Department of Corrections**, the **Department of Labor and Industrial Relations**, the **Department of Revenue**, the **Department of Public Safety**, the **Department of Social Services**, the **Governor's office**, the **Missouri House of Representatives**, the **Department of Conservation**, the **Department of Transportation**, the **Office of Administration**, the **Office of State Courts Administrator**, the **Missouri Senate**, the **Secretary of State's office**, the **Office of the State Public Defender**, the **State Treasurer's office**, **Adair County**, **Boone County**, **Callaway County**, **Cass County**, **Clay County**, **Cole County**, **Greene County**, **Jackson County**, **Jasper County**, **St. Charles County**, **St. Louis County**, **Taney County**, the **City of Cape Girardeau**, the **City of Columbia**, the **City of Jefferson**, the **City of Joplin**, the **City of Kansas City**, the **City of Kirksville**, the **City of Mexico**, the **City of Raymore**, the **City of St. Joseph**, the **City of St. Louis**, the **City of Springfield**, the **City of Union**, the **City of Wentzville**, the **City of West Plains**, **Cape Girardeau 63 School District**, **Hannibal 60 School District**, **Malta Bend R-V School District**, **Mehlville School District**, **Wellsville-Middletown R-1 School District**, **State Technical College of Missouri**, **Metropolitan Community College**, **University of Missouri**, **St. Louis Community College**, the **St. Louis County Board of Elections**, the **Board of Election Commissioners City of St. Louis**, the **Kansas City Board of Election Commissioners**, the **Platte County Board of Elections**, the **Jackson County Election Board**, and the **Clay County Board of Election Commissioners**.

## Assumptions

Officials from the **Attorney General's office** indicated they expect that, to the extent that the enactment of this proposal would result in increased litigation, they expect that their office could absorb the costs associated with that increased litigation using existing resources. However, if the enactment of this proposal were to result in substantial additional litigation, they may be required to request additional appropriations.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no impact to their department.

Officials from the **Department of Elementary and Secondary Education** indicated no impact to their department.

Officials from the **Department of Higher Education and Workforce Development** indicated no fiscal impact to their department.

Officials from the **Department of Health and Senior Services** indicated this initiative petition has no impact on their department.

Officials from the **Department of Commerce and Insurance** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated the petition introduces one new class A felony offense and four new election offenses.

Given the relatively rare occurrence of creating an entirely new class A felony offense, their department does not generally estimate an impact from this type of proposal.

The other four offenses created by this proposal are defined using an offense type, Class III felony, which does not exist. If the intention is to create new class III election offenses, these would be misdemeanor offenses and outside the purview of their department.

If the intent is to create new *felony* election offenses, these would be either class I or class II election offenses. Both class I and class II election offenses are punishable with maximum terms of imprisonment of five years. This is comparable to the maximum term of imprisonment of four years associated with a conviction for a class E felony.

For each new nonviolent class E felony, their department estimates one person will be sentenced to prison and two to probation annually. The average sentence for a nonviolent class E felony offense is 3.4 years, of which 2.1 years will be served in prison with 1.4 years to first release. The remaining 1.3 years will be on parole. Probation sentences will be 3 years.

Therefore, the potential cumulative impact of the proposal on their department is estimated to be up to an additional eight offenders in prison and an additional 29 offenders on field supervision by fiscal year (FY) 2026.

**Change in prison admissions and probation openings with legislation-Class E Felony (nonviolent)**

	FY2023	FY2024	FY2025	FY2026	FY2027	FY2028	FY2029	FY2030	FY2031	FY2032
<b>New Admissions</b>										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	4	4	4	4	4	4	4	4	4	4
<b>Probation</b>										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	8	8	8	8	8	8	8	8	8	8
<b>Change (After Legislation - Current Law)</b>										
Admissions	4	4	4	4	4	4	4	4	4	4
Probations	8	8	8	8	8	8	8	8	8	8
<b>Cumulative Populations</b>										
Prison	4	8	8	8	8	8	8	8	8	8
Parole			4	5	5	5	5	5	5	5
Probation	8	16	24	24	24	24	24	24	24	24
<b>Impact</b>										
Prison Population	4	8	8	8	8	8	8	8	8	8
Field Population	8	16	28	29	29	29	29	29	29	29
<b>Population Change</b>	<b>12</b>	<b>24</b>	<b>36</b>	<b>38</b>	<b>38</b>	<b>38</b>	<b>38</b>	<b>38</b>	<b>38</b>	<b>38</b>

\* If this impact statement has changed from statements submitted in previous years, it is because the Department of Corrections (DOC) has changed the way probation and parole daily costs are calculated to more accurately reflect the way the Division of Probation and Parole (P&P) is staffed across the entire state.

In December 2019, their department reevaluated the calculation used for computing the Probation and Parole average daily cost of supervision and revised the cost calculation to be the DOC average district caseload across the state which is 51 offender cases per officer. The new calculation assumes that an increase/decrease of 51 cases would result in a change in costs/cost avoidance equal to the cost of one full-time equivalent (FTE) staff person. Increases/decreases smaller than 51 offenders are assumed to be absorbable.

In instances where the proposed legislation would only affect a specific caseload, such as sex offenders, their department will use the average caseload figure for that specific type of offender to calculate cost increases/decreases. For instances where the proposed legislation affects a less specific caseload, they project the impact based on prior year(s) actual data for DOC's 48 probation and parole districts.

Their cost of incarceration is \$21.251 per day or an annual cost of \$7,756 per offender. Their cost of probation or parole is determined by the number of P&P Officer II positions that would be needed to cover the new caseload.

They also provided the following information:

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	# to Prison	Cost per year	Total Cost of Prison (includes 2% inflation per year starting in year 2)		Change in number of Probation and Parole Officers	Probation and Parole Officer II Cost per year (includes PS, fringe, E&E and inflation)	Grand Total Prison and Probation	# of Offenders to/from Probation & Parole
Year 1 (10 months)	4	(\$7,756)	(\$15,512)		0	\$0	(\$15,512)	8
Year 2 (includes 2% inflation)	8	(\$7,756)	(\$63,289)		0	\$0	(\$63,289)	16
Year 3 (includes 2% inflation)	8	(\$7,756)	(\$64,555)		0	\$0	(\$64,555)	28
Year 4 (includes 2% inflation)	8	(\$7,756)	(\$65,846)		0	\$0	(\$65,846)	29
Year 5 (includes 2% inflation)	8	(\$7,756)	(\$67,163)		0	\$0	(\$67,163)	29
Year 6 (includes 2% inflation)	8	(\$7,756)	(\$68,506)		0	\$0	(\$68,506)	29
Year 7 (includes 2% inflation)	8	(\$7,756)	(\$69,876)		0	\$0	(\$69,876)	29
Year 8 (includes 2% inflation)	8	(\$7,756)	(\$71,274)		0	\$0	(\$71,274)	29

	# to Prison	Cost per year	Total Cost of Prison (includes 2% inflation per year starting in year 2)		Change in number of Probation and Parole Officers	Probation and Parole Officer II Cost per year (includes PS, fringe, E&E and inflation)	Grand Total Prison and Probation	# of Offenders to/from Probation & Parole
Year 9 (includes 2% inflation)	8	(\$7,756)	(\$72,699)		0	\$0	(\$72,699)	29
Year 10 (includes 2% inflation)	8	(\$7,756)	(\$74,153)		0	\$0	(\$74,153)	29

Officials from the **Department of Labor and Industrial Relations** indicated:

Pursuant to Chapter 115, RSMo, the Missouri Secretary of State currently oversees the conduct of elections within the State of Missouri.

In addition to the Missouri Secretary of State, this could potentially impact the Missouri Attorney General's Office (enforcement). There is the potential, though unlikely, that this petition could impact the Department of Labor and Industrial Relation's State Board of Mediation (SBM).

Unlikely but potential impact: the petition states that internet connectivity shall be discontinued at any polling place on election days. Small businesses that are adjacent to polling places could potentially experience internet disruption, which would impact what/how much work could be performed on election days.

Article XXX, Section 1 of the petition provides that no voting machine may be utilized "in any election to count or calculate votes" and that "all votes shall be counted by hand by the judgment of the human eye." Although unlikely, this petition could potentially have an adverse impact on the SBM.

The SBM is a quasi-judicial board that administers the Public Sector Labor Law (Sections 105.500 -105.598, RSMo), which covers most public sector employees who seek union representation. The board defines an appropriate bargaining unit of employees based on whether or not they share a community of interest and, if certified, determines majority representation status by conducting a secret ballot election. SBM jurisdiction includes all counties, cities, school districts, special districts, and departments of state government, with a few exceptions.

When read in its entirety, the petition appears to address registered voters who participate in elections for municipal, county, state, and federal offices. Read in this context, there is no impact to the work of the SBM. However, in the event that Article XXX, Section 1 could be read so broadly that it would apply to *any election*, the SBM would need to be prepare to certify in-person, non-electronic elections for public employees seeking bargaining representation. This could impact the number of employees assigned to SBM (currently, there are two full-time equivalent (FTE) employees, as well as expenditures for travel, meals, and lodging throughout Missouri to observe and certify such elections.

Officials from the **Department of Revenue** indicated no impact.

Officials from the **Department of Public Safety - Office of the Director** indicated no impact for their department, Director's office.

Officials from the **Department of Social Services** indicated this will have no fiscal impact for their department.

Officials from the **Governor's office** indicated this proposal relating to elections should not fiscally impact their office.

Officials from the **Missouri House of Representatives** indicated minimal unknown fiscal impact would happen if there needed to be a committee meeting outside of session. There is also the question if the Legislature would have to convene during the interim and this would be an unknown fiscal impact. They do not know if it would require them to convene outside of session.

Officials from the **Department of Conservation** indicated there is no anticipated fiscal impact (cost or savings) to their department associated with this proposal.

Officials from the **Department of Transportation** indicated this initiative petition should not have a fiscal impact on their department/Missouri Highways and Transportation Commission.

Officials from the **Office of Administration** indicated this proposal relating to elections should not fiscally impact their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated they anticipate no fiscal impact.

Officials from the **Secretary of State's office** indicated this amendment requires that all future elections in Missouri use paper ballots only, and that all ballots be counted by hand within four hours of the polls closing. Such a requirement will necessitate increased numbers of election judges to assist in the counting process. This is a new responsibility that must be provided for under Article X, Section 21 of the Missouri Constitution.

At the November 2020 general election, at least 3,025,962 ballots were cast statewide. Their assumption is that it will require two teams of judges to process ballots at a rate of one ballot every five minutes (one team to handle and read the ballot, one team to record the votes). Based on this estimation, it would take the equivalent of 126,100 four-hour team shifts to count all ballots. Since there are two judges in each team (one from each major party), this equates to 126,100 judge-days to be paid at an average cost of \$125 per election judge (previously obtained by surveying a sample of local election authorities). This process would incur a cost of up to \$15,762,500 per election.

If this amendment is passed, this cost would be fully incurred at least once in fiscal year (FY) 23 (April 2023), twice in FY24 (March 2024, April 2024), and three times in FY25 (August 2024, November 2024, April 2025) for a minimum three-year cost of \$94,575,000. There would also be additional partially-incurred costs to cover costs of elections outside of the normally-scheduled primary, general, and municipal elections (such as special elections or municipal elections in charter cities/counties). The exact scope of such potential expense is unknown.



Officials from the **Office of the State Public Defender** indicated no fiscal impact on their office.

Officials from the **State Treasurer's office** indicated no fiscal impact to their office.

Officials from **Clay County** indicated they estimate the following for this initiative petition:

*Costs*

- ~\$100,000 extra per Primary Election in even years for poll workers to count in time, Section 1(a) and 3(g)
- ~\$140,000 extra per General Election in even years for poll workers to count in time, Section 1(a) and 3(g)
- ~\$5,000 in Sheriff OT, Section 1(e)
- Total of ~\$245,000 every two years in costs

*Savings*

- ~\$40,000 per year in voting machine software maintenance, Section 1(a)
- ~\$40,000 per year in voting machine capital outlay, Section 1(a)
- Total of ~\$160,000 every two years in savings

Net fiscal impact of **\$85,000** in extra costs every two years for the County's pro rata funding of the Election Board.

Officials from **Greene County** indicated the following estimate of costs to their county for this initiative petition:

The aggregate estimated costs to implement this initiative petition (IP) in Greene County range from \$539,099.71 to \$1,196,070.63 for a Presidential Election.

This aggregate estimate includes all standard election costs, including contract labor for the absentee voting period, and for voter registration, as well as an additional 25% increase in contracted labor costs due to wage inflation. The range is created by calculating the costs across five different implantation scenarios that include variable labor costs and processing speeds. The highest estimation-scenario is derived from an interpretive assumption that restricts the number of tabulating judges to two per polling location, thereby necessitating a corresponding increase in the total number of polling places required to tabulate the ballots timely (on election night).

**The total *increase in costs to implement this IP in Greene County* range from \$60,129.11 – \$717,100.03,** depending on which of the above referenced scenarios comes to fruition.

Please find below a summary of the range of estimated cost changes, by category:

<b>Cost Change By Category</b>			
	<b><i>Low End</i></b>		<b><i>High End</i></b>
Poll Worker Pay	\$65,536.00	<i>to</i>	\$368,690.00
Hand Tabulation	\$14,637.00	<i>to</i>	\$36,592.00
Voter Registration Costs	\$7,076.20	<i>to</i>	\$7,076.20
Elec night/Test teams	(\$3,099.77)	<i>to</i>	\$8,480.23
Contract Labor	\$6,817.36	<i>to</i>	\$6,817.36
DS 200	(\$7,224.78)	<i>to</i>	(\$7,224.78)
Express Vote	\$0.00	<i>to</i>	\$0.00
Phones	\$0.00	<i>to</i>	\$35,153.43
Other Election Expense	\$0.00	<i>to</i>	\$0.00
Postage	\$0.00	<i>to</i>	\$0.00
Clerk Staff Salary	\$0.00	<i>to</i>	\$0.00
Central Supplies - County	\$0.00	<i>to</i>	\$0.00
Elec Srvs Ballot Supplies	\$0.00	<i>to</i>	\$0.00
Polling Place Supplies	\$0.00	<i>to</i>	\$80,653.02
Machine Rental	(\$35,535.44)	<i>to</i>	(\$35,535.44)
Poll Pad Rental	\$0.00	<i>to</i>	\$119,407.50
Polling Place Rent	\$3,199.00	<i>to</i>	\$54,299.00
Delivery of Supplies	\$0.00	<i>to</i>	\$2,683.64
Legal Notices	\$0.00	<i>to</i>	\$0.00
Custodial Overtime	\$0.00	<i>to</i>	\$0.00
Subtotals	\$51,405.57	<i>to</i>	\$677,092.16
5% Admin Fee	\$8,723.54	<i>to</i>	\$40,007.87
<b>Total Increased Cost of Election</b>	<b>\$60,129.11</b>	<b><i>to</i></b>	<b>\$717,100.03</b>

Officials from the **City of Kansas City** indicated this initiative petition would have no fiscal impact on their city.

Officials from **Metropolitan Community College** indicated no fiscal impact to their college.

Officials from the **St. Louis County Board of Elections** indicated their impact response is the following:

- **\$9.375 million** – To hire Election Day Counters to count Election Day ballots in 4 Hours at each Polling Place.
  - 250 Election workers per polling place
  - 300 Polling Places = 75,000 workers

- 75,000 x 5 hours = 375,000 hours
  - 375,000 hours x \$25 per hour
  - \$9.375 million
- **\$1.875 million** – To train Election Day Counters (One hour of training)
  - 75,000 workers @ \$25 per hour = \$1.875 million
- **\$555,000** – To hire workers to count Absentee Ballots
  - (We have estimated this number from previous elections)
  - 22,200 Hours @ \$25 per hour = \$555,000
- **\$194,300** – To hire security/officers for Election Day security
  - \$36 per hour x 18 hours = \$648.00
  - 300 Polling Places = \$194,400
- **\$300,000** – To hire additional poll workers because electronic poll books cannot be used
  - 4 workers x 300 polling places x \$250/day

Total Estimated Cost Per Election: **\$12,299,300**

Officials from the **Board of Election Commissioners City of St. Louis** indicated:

This petition proposes several far reaching changes to the election. This response will be limited to the drastic and severe fiscal impact of elements of this petition.

This petition suggests it would improve election security and confidence if

1. All ballots will be counted by hand and human eye;
2. Ballots will be counted, tabulated and reported at the place where the ballots are cast; and
3. All ballots are to be counted and reported within four hours of the polling places closing.

In November of 2020, at the General Election, a total of 134, 886 votes were cast. A team at the St. Louis City Election Board simulated the experience of a bi-partisan team counting a ballot; in an ideal environment, it took the team 140 seconds to count and verify each race on the ballot. Therefore to count all ballots last November it would have taken 18,884,040 seconds, or 314,734 minutes, or 5,246 hours, which divided by 4 (the hours allocated by the petition for counting) meant they would need at a minimum 1311 teams counting feverishly and perfectly, like machines, if you will, to even come close to accomplishing this task. 1311 teams translates to 2622 people. If you paid 2622 people 15 dollars an hour for 4 hours of work, this would come to \$157,367. In reality, however, given no shows, the need for teams of judges to address voter intent on poorly marked ballots, you would need double the amount of people, therefore 5244, people for a total of \$314,734.

This is the cost of labor alone. The impact on the ability to use many of the 99 polling places they currently use is almost impossible to determine; i.e., whether many of these places would be willing to participate in this endeavor, whether they have the space to house the number of teams necessary to count, etc.

votes cast	134,886
seconds per county each vote	140
total seconds to count all votes	18,884,040
total minutes to count all votes	314,734
total hours to count all votes	5,246
teams needed to count all votes	1,311
total people need to count all votes	2,622
cost at 15 per hour for one hour of counting	39,342
cost for 4 hours	157,367

Officials from the **Platte County Board of Elections** indicated this proposal is blatantly undemocratic, and places technical restrictions under which it becomes impossible to provide election results in the time permitted. It is unserious.

Attempting to satisfy the technical requirements of having all races on all ballots counted and adjudicated by people within 4 hours of polls closing would add more than \$100,000 to the cost of each election.

Officials from the **Clay County Board of Election Commissioners** indicated they think the cost for this would be anywhere from \$100,000 to \$400,000 depending on the type of election. The most concerning about this is the expected results to be done in 4 hours for reporting. In their size jurisdiction there is no way this is feasible, especially if there are multiple candidates and issues on a ballot.

The State Auditor's office did not receive a response from **Adair County, Boone County, Callaway County, Cass County, Cole County, Jackson County, Jasper County, St. Charles County, St. Louis County, Taney County, the City of Cape Girardeau, the City of Columbia, the City of Jefferson, the City of Joplin, the City of Kirksville, the City of Mexico, the City of Raymore, the City of St. Joseph, the City of St. Louis, the City of Springfield, the City of Union, the City of Wentzville, the City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Malta Bend R-V School District, Mehlville School District, Wellsville-Middletown R-1 School District, State Technical College of Missouri, University of Missouri, St. Louis Community College, the Kansas City Board of Election Commissioners, and the Jackson County Election Board.**

## **Fiscal Note Summary**

State and local governments estimate ongoing costs of at least \$18 million per election, but the total cost is unknown. Local governments estimate savings of at least \$80,000 annually and at least \$42,000 for each general election in a presidential election year. State governmental entities estimate no savings.